

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 November 2024

DOCKET NUMBER: AR20240001487

APPLICANT REQUESTS: Exception to Policy (ETP) for Continuation Pay (CP) in the Blended Retirement System (BRS) from December 2014.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record) (duplicate)

FACTS:

1. The applicant states, in effect, he is being told he cannot apply for the Blended Retirement System Continuation Pay because his Pay Entry Base Date (PEBD) is more than 12 years out. However, he was told that the 8–12-year window was based on when he commissioned (2014), not when he enrolled in the Reserve Officer Training Corps (ROTC) (which is when his PEBD began). He is looking for some form of correction that will allow him to apply for continuation pay. A miscommunication caused the error. He did not apply for his continuation pay in the 8–12-year window because he did not believe his 8–12-year window would hit until 8-12 years after commissioning in 2014. He was led to believe by military financial advisors that his continuation pay window was 2022-2026, not 2018-2022.

2. The applicant's records show the following information:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant enlisted in the Army National Guard (ARNG) on 28 July 2010.

b. His Personnel Qualification Record – Officers/Warrant Officers, reflects his PEBD as 28 July 2010.

c. The applicant entered active duty on 30 August 2011. He was honorably released from active duty for training on 6 January 2012 and transferred to the Indiana ARNG. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 months and 7 days of net active service.

d. DA Form 71 (Oath of Office-Military Personnel) shows the applicant was

appointed to the U.S. Army Reserve (USAR) on 22 December 2014 in the rank of second lieutenant/2LT.

e. Orders 076-628, 16 March 2016 shows the applicant was appointed in the Army National Guard in the rank of 2LT.

f. His Officer Record Brief, 3 June 2017, Section III (Service Data) reflects, the applicant's Basic Date of Appointment as 22 December 2014.

g. DA Form 71 shows the applicant was appointed a Reserve Commissioned Officer in the Army National Guard on 11 July 2017 in the rank of 2LT.

h. The applicant entered active duty on 24 January 2022. He was honorably released from active duty for 1 April 2022 and reverted to the Indiana ARNG. His DD Form 214 shows he completed 2 months and 8 days of net active service. Total prior active service of 3 years, 5 months, and 29 days.

i. The ARNG Current Annual Statement, prepared 28 July 2024 shows he has 13 years creditable service for retirement pay.

j. The applicant is currently serving in the Active Army National Guard.

k. The applicant's available service record is void of a Request for Continuation Pay Blended Retirement System (BRS), and any Leave and Earning Statements.

3. In the processing of this case an advisory opinion was obtained from the National Guard Bureau, Chief, Special Actions Branch, who opined in pertinent part:

(1) Recommendation: Approval.

(2) Discussion.

a. The applicant states he was told that he cannot apply for the Blended Retirement System Continuation Pay because his PEDB is more than 12 years out. He also states that he was told that the 8–12-year window was based on when he commissioned (2014), not when enrolled in ROTC (which is when BEPD began. He further states that he is looking for some form of correction that will allow him to apply for continuation pay.

b. The BRS went into effect on 1 January 2018. It effected all new service members who joined the service after 1 January 2018. All other members who were service as of 31 December 2017 were grandfathered under the Army legacy system.

The objective of BRS-CP is to offer midcareer service members a financial incentive to remain in their service in exchange for committing to at least four more years. Time of service is calculated from the service member's pay entry base date (PEBD). The current law does not allow for the acceptance of a CP contract beyond the 12th year of service for active-duty Soldiers, or any member of the reserve Component of an Unformed Service who has accumulated higher than 4320 retirement points.

c. BRS-CP is an entitlement from the Department of Army and is restricted to the criterion of Title 37, USC, Section 356, therefore the National Guard Bureau is unable to approve an exception to policy without adjudication by the Army board for Correction of Military Records. This office recommends approval of the Soldier's request for payment of BRS-CP due to eligibility and circumstances beyond his control which prevented payment.

d. HQDA EXOR 140-21 states Soldiers in BRS will complete training for continuation pay at least 90 days prior to the last date an individual is eligible through online training, face to face or group training. Because the Soldier was more than likely incorrectly or not counseled prior to separation, we recommend the board grant relief.

(3) This opinion was coordinated with the Indiana Army National Guard.

4. On 14 November 2024, the applicant responded to the advisory opinion and states, he understood that the board approved his request to receive continuation pay outside the 8–12-year window. He inquired what his next steps would be from this letter to getting that pay. Would he just go through the normal process and attach this letter? He was thankful for the help.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the National Guard Bureau (NGB), Chief, Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for approval based on the applicant's eligibility and circumstances beyond his control which prevented payment. The Board determined there is sufficient evidence to support the applicant's contentions for Exception to Policy (ETP) for Continuation Pay (CP) in the Blended Retirement System (BRS) from December 2014. As such, the Board granted relief based on the advising official recommendation.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

1. showing the applicant was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PEBD
2. DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims.

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

Department of Defense Financial Management Regulation, Volume 7B states pursuant to the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, as amended by the NDAA FY 2017, the Department of Defense established the

modernized retirement system, commonly known as the BRS. The BRS is the retired pay system for all Service members who entered military service on or after 1 January 2018. All members serving as of 31 December 2017 were grandfathered under the applicable legacy retirement system. The law permits active-duty Service members with less than 12 years of service on 31 December 2017, the option of electing to be covered under the BRS or to remain with their applicable legacy retirement system. The law provides a one-year election period for those Service members eligible to opt into the BRS from 1 January 2018 and ends on 31 December 2018. The decision to opt into the BRS is irrevocable.

//NOTHING FOLLOWS//